

**COUNCIL OF MINISTERS REGULATIONS NO. [ ]/2016  
REGULATIONS ISSUED PURSUANT TO  
THE FEDERAL INCOME TAX PROCLAMATION**

These Regulations are issued by the Council of Ministers pursuant to Article 5 of the Definitions of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No. 916/2015 and Article 99 of the Federal Income Tax Proclamation No 979/2016.

**PART ONE**  
**GENERAL**

**1. Short Title**

These Regulations may be cited as the “Council of Ministers Federal Income Tax Regulations --/2016”.

**2. Definitions**

1/ In these Regulations:

- a) “Proclamation” means the Federal Income Tax Proclamation No. 979/2016; and
- b) “Repealed Proclamation” means the Income Tax Proclamation 286/2002(as amended), Mining Income tax Proclamation 53/1993 and all amendments there to and petroleum operations Income tax no 296/1986 and all amendments thereto.

2/ A term used in these Regulations has the same meaning as in the Proclamation or the Federal Tax Administration Proclamation, as the case may be, unless the context requires otherwise.

**PART TWO**  
**APPLICATION OF TERMS USED IN THE PROCLAMATION**

**3. Interest**

An amount, however described, paid by r a mutual finance association as the return on deposits with, or member’s contributions to, the association shall be treated as interest for the purposes of the Proclamation.

#### 4. **Permanent Establishment**

- 1/ In determining whether a person exceeds the 183-day period specified in Article 4(2)(c) of the Proclamation, account shall be taken of a connected project of the person or of a related person.
- 2/ When a person operates a building site, or conducts a project or activity referred to in Article 4(3) of the Proclamation, any connected activities conducted by a related person shall be added to the period of time during which the first-mentioned person has operated the building site or conducted the project or activities for the purpose of determining whether the 183-day period is exceeded.

#### 5. **Resident Individual**

- 1/ Subject to sub-article (3), in calculating the number of days an individual is present in Ethiopia for the purposes of Article 5(2)(c) of the Proclamation:
  - a) a part of a day that an individual is present in Ethiopia (including the day of arrival in, and the day of departure from, Ethiopia) shall count as a whole day of such presence;
  - b) the following days in which an individual is wholly or partly present in Ethiopia shall count as a whole day of such presence:
    - (1) a public holiday;
    - (2) a day of leave, including sick leave;
    - (3) a day in which the individual's activity in Ethiopia is interrupted because of a strike, lock-out, delay in the receipt of supplies, adverse weather conditions, or seasonal factors;
    - (4) a day spent by the individual on holiday in Ethiopia before, during, or after any activity conducted by the individual in Ethiopia.
- 2/ A day or part of a day when an individual is in Ethiopia solely by reason of being in transit between two different places outside Ethiopia shall not count as a day present in Ethiopia.

#### 6. **Shares and bonds**

- 1/ The reference to "shares and bonds" in Article 59(7)(c) of the Proclamation includes any interest in shares or bonds, such as, in the case of shares, a right or option to acquire shares.

- 2/ A gain arising on disposal of an interest in a share in, or a bond issued by, a resident company shall be Ethiopian source income.

**PART THREE**  
**SCHEDULE 'A' INCOME**

**CHAPTER ONE**  
**FRINGE BENEFITS**

**7. Chapter One of Part Three Definitions**

1/ In this Part:

- a) “Employee share scheme” means an agreement or arrangement under which an employer company or a related company may allot shares to an employee of the employer company;
- b) “Household personnel” means a housekeeper, cook, driver, gardener, or other domestic assistant;
- c) “Market lending rate”, in relation to a month, means:
  - (1) for a commercial bank, the lending rate on loans and rediscount facilities granted by the National Bank of Ethiopia to commercial banks that prevailed in Ethiopia during the month; or
  - (2) for any other person, [the lowest commercial lending interest rate] that prevailed in Ethiopia during the month;
- d) “Medical expenditure” means expenditures for the supply of medical, dental, or nursing services, including the cost of supply of any medicines incidental to the supply of such services;
- e) “Related company”, in relation to a company, means another company that is a related person in respect of the first-mentioned company;
- f) “Remote area” means a location that is [50] kilometres from an urban centre with a population of [20,000];
- g) “Services” includes the use of property and the making available of any facility.
- h) “Vehicle” means a motor vehicle designed to carry a load of less than 1 tonne and fewer than 9 passengers;

- 2/ In this Chapter:
- a) a reference to an “employer” includes a related person of the employer and a third party acting under an arrangement with an employer or a related person of the employer; and
  - b) a reference to an “employee” includes a related person of the employee.

## **8. Fringe Benefits**

- 1/ For the purposes of Article 12(1)(b) of the Proclamation and subject to this Article, the following are fringe benefits:
- a) a debt waiver fringe benefit;
  - b) a household personnel fringe benefit;
  - c) a housing fringe benefit;
  - d) a discounted interest loan fringe benefit;
  - e) a meal or refreshment fringe benefit;
  - f) a private expenditure fringe benefit;
  - g) a property or services fringe benefit;
  - h) an employee share scheme fringe benefit;
  - i) a vehicle fringe benefit;
  - j) a residual fringe benefit.
- 2/ A benefit is not a fringe benefit to the extent that, if the employee had acquired the benefit, the expenditure incurred by the employee in acquiring the benefit would have been incurred in deriving employment income.
- 3/ In determining whether a benefit is a fringe benefit and the value of a fringe benefit, any restriction on transfer of the benefit and the fact that the benefit is not otherwise convertible to cash are to be disregarded.
- 4/ The following benefits are not treated as fringe benefits for the purposes of the Proclamation or these Regulations:
- a) a benefit that is exempt income under Schedule ‘E’ of the Proclamation;

- b) a benefit the value of which, after taking into account the frequency with which the employer provides similar benefits, is so small as to make accounting for it unreasonable or administratively impracticable in accordance with the directive to be issued by the minister;
- c) subsidy to a meal or refreshment provided in a canteen, cafeteria, or dining room operated by, or on behalf of, an employer solely for the benefit of employees and that is available to all non-casual employees on equal terms;
- d) the provision of accommodation or housing to a non-managerial employee in a remote area if:
  - (1) the employee's usual place of employment is in the remote area; and
  - (2) it is necessary for the employer to provide the accommodation or housing to the employee in the remote area because the nature of the employer's business is such that the employee is likely to move frequently from one residential location to another or there is insufficient suitable residential accommodation available in the remote area;
- e) health insurance premiums and medical expenditures paid by an employer on behalf of an employee;
- f) the provision of a mobile phone by an employer for use by an employee;
- g) the payment by an employer of the cost of mobile phone calls made by an employee, including with a mobile phone provided by the employer;
- h) tuition fees paid by an employer for the benefit of an employee for attendance at a course offered by a university, college, or other institution providing adult education courses;
- i) the provision of the services of a security guard for the benefit of an employee.

**9. Debt Waiver Fringe Benefit**

- 1/ The waiver by an employer of the obligation of an employee to pay or repay an amount owing to the employer is a debt waiver fringe benefit.
- 2/ The value of a debt waiver fringe benefit shall be the amount waived.

**10. Household Personnel Fringe Benefit**

- 1/ The services of household personnel provided by an employer to an employee is a household personnel fringe benefit.
- 2/ The value of a household personnel fringe benefit for a month shall be the total employment income paid to the household personnel in that month for services rendered to the employee reduced by any payment made by the employee for such services.

**11. Housing Fringe Benefit**

- 1/ Accommodation or housing provided by an employer to an employee is a housing fringe benefit.
- 2/ The value of a housing fringe benefit provided by an employer to an employee for a month when the employer owns the accommodation or housing shall be the fair market rent of the accommodation or housing for the month reduced by any payment made by the employee for the accommodation or housing.
- 3/ The value of a housing fringe benefit provided by an employer to an employee for a month when the employer leases the accommodation or housing shall be the rent paid by the employer for the accommodation or housing during the month reduced by any payment made by the employee for the accommodation or housing.

**12. Discounted Interest Loan Fringe Benefit**

- 1/ A loan provided by an employer to an employee is a discounted interest loan fringe benefit if the interest rate under the loan is less than the market lending rate.
- 2/ The value of a discounted interest loan fringe benefit for a month shall be the difference between the interest paid by the employee on the loan for the month, if any, and the interest that would have been paid by the employee on the loan for the month if the loan had been made at the market lending rate for that month.

**13. Meal or Refreshment Fringe Benefit**

- 1/ A meal or refreshment provided by an employer to an employee is a meal or refreshment fringe benefit.
- 2/ The value of a meal or refreshment fringe benefit shall be the total cost to the employer of providing the meal or refreshment reduced by any amount paid by the employee for the meal or refreshment.

**14. Vehicle Fringe Benefit**

- 1/ A vehicle provided by an employer to an employee wholly or partly for the private use of the employee is a vehicle fringe benefit.
- 2/ Subject to sub-articles (3) and (4), the value of a vehicle fringe benefit for a month shall be the amount calculated in accordance with the following formula:

$$\frac{(A \times 5\%)}{12}$$

where:

- A** is the cost to the employer of acquiring the vehicle or, if the vehicle is leased by the employer, the fair market value of the vehicle at the commencement of the lease.
- 3/ The value of a vehicle fringe benefit calculated under sub-article (2) shall be reduced by the following:
    - a) any payment made by the employee for the use of the vehicle or for maintenance and running costs;
    - b) the proportion of the use of the vehicle (if any) by the employee in the conduct of employment;
    - c) the proportion of the month (if any) that the vehicle was not provided to the employee for private use.
  - 4/ If an employer has held a vehicle for more than five years, the value of component **A** in the formula in sub-article (2) shall be 50% of the amount determined under sub-article (2).
  - 5/ A reference in this Article to a vehicle being provided to an employee for private use includes a vehicle that is made available to an employee for private use even if the employee did not actually use the vehicle for a private use on a particular day.

## **15. Private Expenditure Fringe Benefit**

- 1/ Subject to sub-article (3), the payment of expenditure by an employer is a private expenditure fringe benefit to the extent that the expenditure gives rise to a private benefit to an employee.
- 2/ The value of a private expenditure fringe benefit shall be the amount of the expenditure treated as a private expenditure fringe benefit under sub-article (1).
- 3/ This Article shall not apply to expenditure paid by an employer that is a fringe benefit under another Article in this Part other than Article 18 of these Regulations.

**16. Property or Services Fringe Benefit**

- 1/ The transfer of property or provision of services by an employer to an employee is a property or services fringe benefit.
- 2/ Subject to sub-article (3), the value of a property or services fringe benefit shall be:
  - a) if the employer supplies the property or services to customers in the ordinary course of business, 75% of the normal selling price of the property or services; or
  - b) in any other case, the cost to the employer of acquiring the property or services.
- 3/ The value of a property fringe benefit determined under sub-article (2) shall be reduced by any payment made by the employee for the property or services.
- 4/ For the purposes of sub-article (2)(a), if the property or services fringe benefit is the provision of free or subsidised air travel by an employer that is an airline operator, the normal selling price is the standard economy fare for the flight provided by the employer.

**17. Employee Share Scheme Benefit**

- 1/ The value of a right or option to acquire shares granted to an employee under an employee share scheme shall not be treated as a fringe benefit or otherwise included in employment income and:
  - a) if the employee exercises the right or option, this Article applies; or
  - b) if the employee disposes of the right or option, Article 59 of the Proclamation shall apply to the disposal on the basis that the right or option is a class 'B' taxable asset.
- 2/ The allotment of shares to an employee under an employee share scheme, including shares allotted as a result of the exercise of an option or right to acquire the shares, is an employee share scheme fringe benefit.
- 3/ Subject sub-article (4), the value of an employee share scheme fringe benefit shall be the fair market value of the shares at the date of allotment reduced by the employee's contribution for the shares.
- 4/ If shares allotted to an employee under an employee share scheme are subject to a restriction on the transfer of the shares, the employee is



treated as having derived the employee share scheme benefit on the earlier of:

- a) the time the employee is able to freely transfer the shares; or
  - b) the time the employee disposes of the shares.
- 5/ When sub-article (4) applies, the fair market value of the shares is determined at the time the employee share scheme benefit is derived as determined under sub-article (4).
- 6/ In this Article, “employee’s contribution”, in relation to shares allotted to an employee under an employee share scheme, means the sum of the consideration, if any, given by the employee:
- a) for the shares; and
  - b) for the grant of any right or option to acquire the shares.

**18. Residual Fringe Benefit**

- 1/ A benefit provided by an employer to an employee not covered by another Article in this Part is a residual fringe benefit.
- 2/ The value of a residual fringe benefit is the fair market value of the benefit determined at the time it is provided, as reduced by any payment made by the employee for the benefit.

**19. Limitation of Tax Liability on Fringe Benefits**

Notwithstanding the provisions of this chapter, the aggregate tax liability on fringe benefits shall under any circumstance not exceed **10%** of the salary income of the employee.

**CHAPTER TWO**  
**FOREIGN EMPLOYMENT INCOME**

**20. Foreign Employment Income**

- 1/ Article 93(1) of the Proclamation shall apply to a resident employee employed by a non-resident employer otherwise than as an employee of an Ethiopian permanent establishment of the non-resident.
- 2/ If a resident employee has derived foreign employment income for a calendar month on which the employee has paid foreign income tax, the employee shall be allowed a tax credit of an amount equal to the lesser of:
  - a) the foreign income tax paid; or

- b) the employment income tax payable in respect of the foreign employment income calculated by applying the average rate of employment income tax applicable to the resident employee to the foreign employment income of the employee for the month.
- 3/ Article 45(3), (4), and (5) of the Proclamation shall apply for the purposes of the tax credit allowed under this Article on the basis that the reference to “business income tax” is a reference to “employment income tax” and the reference to “tax year” is a reference to the “calendar month”.
- 4/ In this Article:
- a) “Average rate of employment income tax”, in relation to a resident employee for a calendar month, means the percentage that the employment income tax payable by the employee for the month, before the allowance of any tax credit, is of the total employment income of the employee for the month;
  - b) “Foreign employment income” means foreign income that is taxable under Schedule ‘A’ of the Proclamation;
  - c) “Foreign income tax” means income tax, including withholding tax, imposed by the government of a foreign country or a political subdivision of a government of a foreign country, but does not include a penalty, additional tax, or interest payable in respect of such tax;
  - d) “Resident employee” means an employee who is a resident of Ethiopia.

**PART FOUR**  
**SCHEDULE ‘B’ INCOME**

**21. Rental Payment Covering More Than One Year**

If a lessor or sub-lessor to whom Article 15(5) of the Proclamation applies receives an amount of rental income for a period in excess of one year, the total amount of rental income received shall be treated as having been derived in the tax year in which it was received but the tax payable on the amount shall be calculated by prorating the rental income over the number of tax years to which the payment relates.

**22. Lease of Business Assets**

Income derived from the lease of a business, including goods, equipment, and buildings that are part of the normal operation of a business, shall be taxable under Schedule ‘C’ of the Proclamation.

**23. Depreciation of a Rental Building, Furniture, and Equipment**

For the purposes of Article 15(7)(c) of the Proclamation, the deduction allowed for a tax year for depreciation of a rental building, furniture, and equipment shall be determined in accordance with Article 25 of the Proclamation and Chapter Two of Part Five of these Regulations on the basis that:

- a) the rental building is a depreciable asset being a structural improvement to immovable property; and
- b) any furniture and equipment leased with the building are depreciable assets.

**24. Rental Income Losses**

- 1/ If the total rental income for a tax year of a taxpayer keeping records is exceeded by the deductions allowed to the taxpayer under Article 15(7)(c) of the Proclamation for the tax year, the amount of the excess shall be treated as a rental loss for the year.
- 2/ Article 26 of the Proclamation and Article 42 of these Regulations shall apply to a taxpayer who has a rental loss for a tax year on the basis that the reference in those Articles to a “loss” is a reference to a “rental loss”.

**25. Foreign Rental Income**

- 1/ If a resident taxpayer has foreign rental income for a tax year on which the taxpayer has paid foreign income tax, the taxpayer shall be allowed a tax credit of an amount equal to the lesser of:
  - a) the foreign income tax paid; or
  - b) the rental income tax payable in respect of the foreign rental income of the taxpayer calculated by applying the average rate of rental income tax applicable to the taxpayer to the net foreign rental income of the taxpayer for the tax year.
- 2/ Article 45(3), (4), and (5) of the Proclamation shall apply for the purposes of the tax credit allowed under this Article on the basis that the reference to “business income tax” is a reference to “rental income tax”.
- 3/ In this Article:
  - a) “Average rate of rental income tax”, in relation to a resident of Ethiopia for a tax year, means the percentage that the rental income tax payable by the resident for the year, before the

allowance of any tax credit, is of the taxable rental income of the resident for the year;

- b) “Foreign income tax” means income tax, including withholding tax, imposed by the government of a foreign country or a political subdivision of a government of a foreign country, but does not include a penalty, additional tax, or interest payable in respect of such tax;
- c) “Foreign rental income” means foreign income taxable under Schedule ‘B’; and
- d) “Net foreign rental income”, in relation to a resident taxpayer for a tax year, means the total foreign rental income of the taxpayer for the year reduced by the deductions allowed under Article 15(7) of the Proclamation that relate to the derivation of that income.

## **26. Rental Building Notification**

For the purpose of Article 17(1) of the proclamation, at the earlier of the time construction of a rental building completed or when the building is rented, the owner of the building and the builder shall notify the kebele administration or local administration in which the building is located about the completion and the name, address and TIN of the person liable for rental income tax with respect to the building.

### **PART FIVE** **SCHEDULE ‘C’ INCOME**

#### **CHAPTER ONE** **DEDUCTIONS**

## **27. Payments of Employment Income to Relatives**

- 1/ a deduction shall be allowed for employment income paid by the employer to a relative to the extent only that the amount of the employment income paid is consistent with the value of the services rendered by the relative and the qualifications of the relative for the position held.
- 2/ An amount shall not be included in the employment income of an employee to the extent that the employer has been denied a deduction for the payment of the employment income under sub-article (1).
- 3/ The mode of application of this article shall be determined by a directive to be issued by the Authority.

## **28. Representation Expenditures**

For the purposes of Article 27(1)(i) of the Proclamation, “representation expenditures” shall mean hospitality expenditures incurred by an employee in receiving guests from outside the business for the purposes of promoting and enhancing the business.

**29. Deductibility of Interest Paid to a Foreign Bank**

Interest paid to a foreign bank referred to in Article 23(2)(a)(2) of the Proclamation shall be deductible only if the foreign bank has provided the Authority with a copy of the National Bank of Ethiopia authorisation for the loan.

**30. Medical Expense Incurred for Employees’**

Medical expense incurred by an employer for his employee including premium payments made under employees’ health insurance scheme shall be deducted in accordance with Article 22(1)(a) of the Proclamation.

**31. Food and beverage services provided by establishments engaged in the provision of Food and Beverage Services**

Expenditure incurred in the provision of food and beverage services by Hotels , Restaurants and other similar establishments for their employees shall be deducted in accordance with Article 22(1)(a) of the proclamation to the extent allowed by a directive to be issued by the minister.

**32. Business Promotion Expenditure**

Expenses incurred locally or abroad in connection with the promotion of the business shall be deductible in accordance with the limits set by the directive to be issued by the Minister.

**33. A lessee maintaining or repairing or improving a business asset at his own Expense**

Expenditure incurred by a lessee in the maintenance or repair or improvement of the leased business asset in accordance with the contract concluded with the lessor, shall be deducted from the business income of the lessee.

**34. Charitable Donation**

1. A deduction allowed under Article 24(1) of the proclamation for charitable donations shall apply to expenses incurred by the tax payer in the management of his own charitable activities.

2. For the purpose of Article 24(1) b of the proclamation, call by the government means call by the federal government or a regional state and includes a call by the Addis Ababa and Diredawa city administrations.

**35. Deduction allowed for Business Asset held under a Hire Purchase Agreement**

Lease payment made for business asset held under a hire purchase agreement is deductible business expenditure from gross business income. However, a person realizing deduction under this article shall not be entitled to depreciation on the asset.

**CHAPTER TWO**  
**DEPRECIATION**

**36. Depreciation of Depreciable Assets and Business Intangibles**

- 1/ Subject to sub-article (2), a taxpayer may determine the depreciation deduction allowed under Article 25(1) of the Proclamation according to the straight-line method under Article 37 of these Regulations or the diminishing value method under Article 38 of these Regulations provided:
- a) the taxpayer has used the same method of depreciation in its financial accounts prepared in accordance with financial reporting standards; and
  - b) the same method of depreciation is used by the taxpayer for all depreciable assets owned by the taxpayer.
- 2/ The following assets shall be depreciated only under the straight-line method:
- a) a business intangible;
  - b) a structural improvement;
- 3/ For the purposes of calculating the depreciation deduction in relation to a structural improvement, the cost of the structural improvement shall not include the cost of the land on which the improvement is situated.
- 4/ No depreciation deduction shall be allowed for the cost of a depreciable asset or business intangible acquired by a taxpayer from a related person (“transferor”) when the cost of the asset or intangible had been fully depreciated by the transferor.

**37. Straight-line Depreciation**

- 1/ Subject to Article 25(3) and (4) of the Proclamation, the depreciation deduction allowed to a taxpayer for a tax year in respect of a depreciable asset or business intangible under the straight-line method shall be calculated by applying the rate specified in Article 32 of these Regulations against the cost of the asset.
- 2/ The total deductions allowed, or that would be allowed but for Article 25(4) of the Proclamation, to a taxpayer in respect of a depreciable asset or business intangible to which this Article applies for the current tax year and all previous tax years shall not exceed the cost of the asset.

### **38. Diminishing Value Depreciation**

- 1/ Subject to Article 25(3) and (4) of the Proclamation, the depreciation deduction allowed to a taxpayer for a tax year in respect of a depreciable asset under the diminishing value method shall be calculated by applying the rate specified in Article 32 of these Regulations against the net book value of the asset at the beginning of the year.
- 2/ If Article 25(4) of the Proclamation applies to a depreciable asset for a tax year, the net book value of the asset shall be calculated on the basis that the asset has been used in that year solely to derive business income.

### **39. Rates of Depreciation**

- 1/ The rates of depreciation applicable to a depreciable asset are specified in the following table based on the following categories:

<b>Depreciable Asset</b>	<b>Straight-line Rate</b>	<b>Diminishing Value Rate</b>
Computers, software, and data storage equipment	20%	25%
Greenhouses	10%	-
Structural Improvement other than a greenhouse	5%	-
Any other depreciable asset	15%	20%
Depreciable asset used in mining and petroleum development operations	25%	30%

- 2/ The rate of depreciation applicable to a business intangible shall be:
- a) for preliminary expenditure, 25%;
  - b) for a business intangible with a useful life of more than 10 years, other than a business intangible referred to in paragraph (a), 10%; or
  - c) for any other business intangible, 100% divided by the useful life of the intangible.
- 3/ In this Article, “preliminary expenditure” means expenditure referred to in paragraph (4) of the definition of “business intangible” in Article 25(7)(a) of the Proclamation incurred by a taxpayer before the commencement of a business.

**40. Depreciation allowed on a Building used Partially as a Business Asset**

Depreciation on a building used partially as a business asset shall be allowed only in proportion to the portion of the property used as a business asset.

**41. Repairs and Improvements**

- 1/ Subject to sub-article (2), a taxpayer shall be allowed a deduction for a tax year for the cost of a repair or improvement made to a depreciable asset during the year.
- 2/ The amount of the deduction allowed under sub-article (1) shall not exceed 20% of the net book value of the asset at the end of the tax year.
- 3/ The amount of any excess under sub-article (2) shall be added to the net book value of the asset.

**CHAPTER THREE**  
**LOSS CARRY FORWARD**

**42. Loss Carry Forward**

- 1/ If a taxpayer has a loss carried forward under the Proclamation for more than one tax year, the loss of the earliest year shall be deducted first.
- 2/ A loss may be carried forward under the Proclamation only if the taxpayer’s books of account showing the loss are audited and acceptable to the Authority.



- 3/ Despite sub-article (2), a taxpayer may carry a loss forward if:
  - a) the taxpayer has submitted books of account to the Authority showing that the loss has been audited by external auditors; and
  - b) the Authority has failed to audit the taxpayer's books of account before the due date for filing the taxpayer's tax declaration for the next following tax year.
- 4/ Nothing in sub-article (3) prevents the Authority from subsequently auditing the loss and serving the taxpayer with a notice of amended assessment in relation to the loss in accordance with Article 28 of The Federal Tax Administration Proclamation.
- 5/ In this Article, a reference to a loss carried forward means a loss carried forward under Article 26, 38, or 46 of the Proclamation.

**CHAPTER FOUR**  
**FOREIGN CURRENCY EXCHANGE GAINS AND LOSSES**

**43. Foreign Currency Exchange Gains and Losses**

- 1/ A foreign currency exchange gain derived by a taxpayer shall be included in business income.
- 2/ Subject to sub-article (3), if a taxpayer incurred a foreign currency exchange loss during a tax year, the loss shall be offset against a foreign currency exchange gain derived by the taxpayer during the year subject to the following:
  - a) the unused amount of a loss can be carried forward indefinitely for offset against foreign currency exchange gains until fully offset;
  - b) the taxpayer has substantiated the amount of the loss to the satisfaction of the Authority.
- 3/ Sub-article (2) shall not apply to a foreign currency exchange loss incurred by a financial institution and the amount of the loss shall be allowed as a deduction provided the financial institution has substantiated the amount of the loss to the satisfaction of the Authority.
- 4/ A taxpayer derives a foreign currency exchange gain or incurs a foreign currency exchange loss when the gain or loss is realised.
- 5/ In determining whether a taxpayer has derived a foreign currency exchange gain or incurred a foreign currency exchange loss in respect of a foreign currency transaction, account must be taken of the taxpayer's position under a hedging contract entered into by the taxpayer or by a related person in relation to the transaction.

6/ In this Article:

- a) “Debt obligation” means an obligation to make a payment of money to another person, including accounts payable and the obligations arising under promissory notes, bills of exchange, and bonds;
- b) “Foreign currency exchange gain” means a gain attributable to currency exchange rate fluctuations derived in respect of a foreign currency transaction;
- c) “Foreign currency exchange loss” means a loss attributable to currency exchange rate fluctuations incurred in respect of a foreign currency transaction;
- d) “Foreign currency transaction” means any of the following transactions entered into in the conduct of a business to derive business income:
  - (1) a dealing in a foreign currency;
  - (2) the issuing of, or obtaining a debt obligation, denominated in foreign currency; or
  - (3) any other dealing in which foreign currency is denominated;
- e) “Hedging contract” means a contract entered into by a person for the purpose of eliminating or reducing the risk of adverse financial consequences that might result for the person under another contract from currency exchange rate fluctuations.

**CHAPTER FIVE**  
**BANKS AND INSURANCE COMPANIES**

**44. Loss Reserve of Banks**

A bank shall be allowed a deduction for a tax year for 80% of its loss reserve for the year provided the amount of the reserve has been calculated in accordance with the prudential requirements prescribed by the National Bank of Ethiopia and is consistent with financial reporting standards.

**45. Reserve for Unexpired Risks of General Insurance Companies**

1/ Subject to sub-article (2), an insurance company carrying on the business of general insurance shall be allowed a deduction for a tax year of the balance of its reserve for unexpired risks as at the end of the year provided the amount of the reserve has been calculated in accordance with financial reporting standards.

- 2/ If an insurance company is a non-resident company carrying on business through a permanent establishment in Ethiopia, the deduction allowed under sub-article (1) shall be limited to the balance of the company's reserve for unexpired risks in Ethiopia.
- 3/ The business income of an insurance company carrying on the business of general insurance for a tax year shall include the amount of the company's reserve for unexpired risks deducted in the previous tax year under sub-article (1) or (2), as the case may be.
- 4/ In this Article, "General Insurance" means all insurance other than life insurance as defined under Article 691 of the Commercial Code Proclamation 1960.

#### **46. Taxable Income from Life Insurance Business**

- 1/ The taxable income of an insurance company from the conduct of the business of life insurance for a tax year shall be calculated according to the following formula:

$$(A + B + C + D) - (E + F + G + H)$$

where:

- A** is the life insurance premiums derived by the company during year but not including premiums returned to policy holders during the year;
- B** is investment income derived by the company during the year relating to the business of life insurance;
- C** is the amount of any previously deducted reserves for life policies cancelled during the year;
- D** is any other income derived by the company during the year relating to the life insurance business;
- E** is underwriting expenses incurred by the company during the year in the conduct of life insurance business, including commissions paid, reinsurance premiums, risk analysis costs, Government charges on the policy, and operating expenses;
- F** is the additions to life policy reserves, including the initial reserve on new life policies issued during the year;
- G** is the amount of claim payments under life policies made in excess of the sum of reserved amounts and income earned on the reserved amounts in relation to life policies paid out during the year; and

**H** is any other deductible expenditure incurred by the company during the year in relation to the life insurance business.

- 2/ If a company conducts the business of life insurance and some other business including the business of general insurance, the taxable income of the company from the conduct of the life insurance business shall be calculated separately from the taxable income from other business of the taxpayer.
- 3/ In this Article, "Life Insurance" has the meaning in Article 691 of the Commercial Code Proclamation 1960.

## **CHAPTER SIX** **MICRO ENTERPRISES**

### **47. Obligation of Micro Enterprises to maintain Books of Account**

For the purpose of Article 82 of the proclamation, micro enterprises shall be treated as individual.

## **CHAPTER SEVEN** **CATEGORY 'C' TAXPAYERS**

### **48. Presumptive Business Taxation of Category 'C' Taxpayers**

1. The presumptive business tax to be paid by category "c" taxpayers shall be calculated in accordance with the schedule attached to this proclamation.
2. The annual taxable income of a tax payer shall be assessed in accordance with the maximum annual turnover in the bracket within which the annual gross income of the tax payer falls.

## **PART SIX** **SCHEDULE 'D' INCOME**

### **49. Income from Casual Rentals**

For the purpose of Article 58 of the Proclamation "Income derived from Casual rental of asset" means gross income derived by a person who is not engaged in the regular business of rental of movable or immovable asset.

### **50. Repatriated Profit of a Permanent Establishment**

- 1/ The tax under Article 62 of the Proclamation on the repatriated profit of a non-resident body conducting business through a permanent

establishment in Ethiopia shall be imposed by reference to the body's tax year.

- 2/ The repatriated profit of a body for a tax year shall be calculated in accordance with the following formula:

$$A + (B - C) - D$$

where:

- A** is the total cost of assets, net of liabilities, of the permanent establishment at the commencement of the tax year;
- B** is the net profit of the permanent establishment for the tax year calculated in accordance with financial reporting standards;
- C** is the business income tax payable on the taxable income of the permanent establishment for the tax year; and
- D** is the total cost of assets, net of liabilities, of the permanent establishment at the end of the tax year.
- 3/ In calculating the repatriated profit of a permanent establishment for a tax year, the total cost of assets of the permanent establishment at the end of a tax year shall be the total cost of assets at the commencement of the next following tax year.

**51. The effect of Adjustment of Business Profit in accordance with a Tax Audit on Tax paid on paid out Dividends**

The fact of a business profit declared by a body being less than the adjusted business profit of the body by the authority in accordance with the finding of a tax audit, shall not affect the tax on dividend distributed to shareholders on the basis of the profit declared by that body.

**52. Capital gains tax payable on the disposal of certain investment assets by Donation**

1. For the purpose of Article 59 of the proclamation, tax payable on a capital asset disposed by donation shall be calculated on the difference between the original cost of the asset and the cost of the asset at the time of disposal by donation.
2. The donee /receiver shall be liable to pay tax on a capital asset disposed by donation.

**PART SEVEN**  
**EXEMPT INCOME**

**53. Exempt Income**

1. The items of income listed below are exempt from tax.
  - a. the provision of food and beverage services by Hotels , Restaurants and other similar establishments for their employees,
  - b. Membership contribution to non-profit entities
  - c. Income from employment received by unskilled employee working for the same employer whether continuously or intermittently for not more than thirty (30) days within any twelve month period, provided however that the tax payable on income from employment received by a casual employee working intermittently for the same employer for more than thirty (30) days within twelve months period shall be calculated only on the income received by that employee from the last employment.

For the purpose of this exemption “unskilled employee” shall mean an employee who has not received vocational training , does not use machinery or equipment requiring special skill, and who is engaged by an employer for a period aggregating not more than thirty(30)days during a calendar year.

2. The exemption accorded under Article 65(1)( a) (1) of the proclamation to an amount paid by an employer to cover the cost of medical treatment of an employee shall include premium payments made by an employer on behalf of an employee under employees’ medical insurance scheme.

**PART EIGHT**  
**ASSETS**

**54. Disposal and Acquisition**

Notwithstanding the provision of Article 1185 of the civil code, for the purpose of depreciation and capital gain tax, when a registerable asset is transferred by sale, exchange or gift, the transferor is treated as having disposed of the asset and the transferee is treated as having acquired the asset at the time the contract of sale, exchange or gift is registered by an entity empowered to exercise the function of the notary.

**55. Cost**

- 1/ The cost of a class 'A' taxable asset shall be adjusted for inflation as determined under a Directive issued by the Minister.
- 2/ If the acquisition of an asset by a taxpayer is the derivation of an amount that is:
  - a) included in the income of the taxpayer subject to tax under the Proclamation, the cost of the asset is the amount so included plus any amount paid by the taxpayer for the asset; or
  - b) exempt income, the cost of the asset is the exempt amount plus any amount paid by the taxpayer for the asset.

**PART NINE**  
**ADMINISTRATIVE AND PROCEDURAL RULES**

**56. Books of Account to be kept by Category 'B' Taxpayers**

The authority shall determine by directive the documents that category "B" tax payers shall be required to submit together with their books of account.

**57. Books of Account and Documents to be Kept by Category 'C' Taxpayers**

1. For the purpose of Article 82(3) of the proclamation, category "C" tax payers may keep book of accounts that category "B" tax payers are required to maintain.
2. Notwithstanding the provision of sub article (1) of this article, a category "C" tax payer employing a worker shall keep documents showing any amount of employment income paid to the employee and any amount withheld in tax from such income.

**58. Payment of Tax by Category 'C' Taxpayers**

For the purposes of Article 49 of the Proclamation, Category 'C' taxpayers shall pay tax in accordance with standard presumptive business tax and indicator based presumptive business tax methods.

**59. Services to which Withholding Tax shall not apply**

For the purpose of Article 92 of the proclamation, the minister shall specify by a directive the type of services to which withholding tax shall not apply.

**60. Withholding of Tax from Domestic Payments**

- 1/ A withholding agent required to withhold tax under Article 92 of the Proclamation shall issue a serially numbered official receipt to the recipient of the payment from which tax is to be withheld under that Article.
- 2/ If the withholding agent is a Government agency, the receipts referred to in sub-article (1) shall be authenticated by the Ministry.
- 3/ Article 19 of the Federal Tax Administration Proclamation shall apply to receipts referred to in sub-article (1) issued by a withholding agent other than a Government agency.

**61. Requirement to provide Trade License to a Withholding Agent**

The provision of article 92(4) of the proclamation shall apart from tax payers failing to produce TIN, also apply to person not producing trade license.

**62. The liability of a withholding agent**

1. Article 97(3) of the proclamation shall not apply where a withholding agent required to withhold and transfer tax to the authority under the proclamation presents evidence to the tax authority that the principal tax payer has paid the tax, notwithstanding that the withholding agent has failed to withhold and transfer the tax.
2. The provision of sub article 1 of this article doesn't preclude the penalty imposed under article of 106(1) of the Tax Administration Proclamation.

**63. Delayed submission of Books of Account**

1. Books of account shall not be rejected by reason of late submission.
2. The provision of sub article 1 shall not apply
  - a. Where the tax has been assessed by estimation because of non-filing of tax return.
  - b. doesn't preclude the penalty imposed under article 102 of the Tax Administration Proclamation.

**PART TEN**  
**TRANSITIONAL REGULATIONS**

**64. Pooled Depreciable Assets**

- 1/ A taxpayer who has a positive balance in a depreciation pool at the commencement of the Proclamation shall continue to depreciate the balance of the pool in accordance with repealed Proclamation.



- 2/ If a taxpayer to whom sub-article (1) applies disposes of a depreciable asset in a depreciation pool, the consideration for the disposal shall reduce the depreciation base of the pool.
- 3/ If, as a result of a disposal a depreciable asset referred to in sub-article (1), the depreciation base of a depreciation pool is a negative amount:
  - a) the negative amount is included in business income; and
  - b) the pool is treated as closed and any assets remaining in the pool are treated as fully depreciated.
- 4/ A taxpayer who has acquired a depreciable asset on or after the commencement of the Proclamation shall depreciate the asset in accordance with Article 29 of these Regulations and the cost of the asset shall not be added to a depreciation pool referred to in sub-article (1).

**65. Business Loss Carried Forward**

- 1/ A taxpayer who has a business loss under the repealed Proclamation that has not been fully deducted under the repealed Proclamation shall continue to deduct the loss in accordance with the repealed Proclamation.
- 2/ Any loss incurred under the repealed Proclamation shall not be taken into account for the purposes of Article 26(4) of the Proclamation.

**66. Exemptions under Directives**

An exemption provided for in a Directive issued by the Minister prior to the commencement of the Proclamation shall remain in force until the earlier of:

- a) the date that the Directive lapses according to its terms; or
- b) the date that the Minister withdraws the Directive.

**PART ELEVEN**  
**MISCELLANEOUS**

**67. Directives**

The Minister may issue Directives for the proper implementation of these Regulations.

**68. Repealed and inapplicable laws**

- 1/ The Income Tax Regulations No. 78/2002(as amended) are repealed by these Regulations.

2/ The repealed Regulations shall continue to apply for tax years preceding the effective date of these Regulations

**69. Effective Date**

This Regulation shall apply on income derived as of 8<sup>th</sup> day of July, 2016.

Done at Addis Ababa, this....day of....., 2016.

Hailemariam Dessalegn  
Prime Minister of the Federal Democratic  
Republic of Ethiopia

